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DEPARTMENT OF COMMERCE

International Trade Administration

[C-475-833]

Countervailing Duty Investigation of Certain Corrosion-Resistant Steel Products From Italy:
Final Affirmative Determination and Final Affirmative Critical Circumstances, in Part

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (the “Department”) determines that countervailable subsidies are being provided to producers and exporters of certain corrosion-resistant steel products (“corrosion-resistant steel”) from Italy as provided in section 705 of the Tariff Act of 1930, as amended (the “Act”). For information on the estimated subsidy rates, see the “Final Determination” section of this notice. The period of investigation is January 1, 2014, through December 31, 2014.

EFFECTIVE DATE: [Insert date of publication in the *Federal Register*].

FOR FURTHER INFORMATION CONTACT: Bob Palmer, Irene Gorelik, and Katie Marksberry, AD/CVD Operations, Office V, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone 202.482.9068, 202.482.6905, and 202.482.7906, respectively.

SUPPLEMENTARY INFORMATION:

Background

The Department published the *Preliminary Determination* on November 6, 2015,¹ published the *Preliminary Critical Circumstances* on November 5, 2015,² and placed the Post-Preliminary Analysis on the record of this investigation on April 13, 2016.³ A summary of the events that occurred since the post-preliminary analysis, as well as a full discussion of the issues raised by parties for this final determination, may be found in the Issues and Decision Memo.⁴ The Issues and Decision Memo is a public document and is on file electronically *via* Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System ("ACCESS"). ACCESS is available to registered users at <http://access.trade.gov>, and is available to all parties in the Central Records Unit, room B8024 of the main Department of Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at <http://trade.gov/enforcement>. The signed Issues and Decision Memo and the electronic versions of the Issues and Decision Memo are identical in content.

As explained in the memorandum from the Acting Assistant Secretary for Enforcement and Compliance, the Department has exercised its discretion to toll all administrative deadlines

¹ See *Countervailing Duty Investigation of Certain Corrosion-Resistant Steel Products From Italy: Preliminary Affirmative Determination*, 80 FR 68839 (November 6, 2015) ("*Preliminary Determination*") and accompanying Preliminary Decision Memorandum ("*Prelim Decision Memo*").

² See *Antidumping and Countervailing Duty Investigations of Corrosion-Resistant Steel Products From India, Italy, the People's Republic of China, the Republic of Korea, and Taiwan: Preliminary Determinations of Critical Circumstances*, 80 FR 68504 (November 5, 2015) ("*Preliminary Critical Circumstances*").

³ See Memorandum to Paul Piquado, Assistant Secretary for Enforcement and Compliance, re: "Post-Preliminary Analysis of Countervailing Duty Investigation: Certain Corrosion Resistant Steel from Italy," dated April 13, 2016 ("*Post-Preliminary Analysis*").

⁴ See Memorandum from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Paul Piquado, Assistant Secretary for Enforcement and Compliance, "Issues and Decision Memorandum for the Final Affirmative Determination in the Countervailing Duty Investigation of Certain Corrosion Resistant Steel from Italy," dated concurrently with this notice ("*Issues and Decision Memo*").

due to the closure of the Federal Government. All deadlines in this segment of the proceeding have been extended by four business days. The revised deadline for the final determination is now May 24, 2016.⁵

Scope of the Investigation

The products covered by this investigation are corrosion-resistant steel products from Italy. For a complete description of the scope of this investigation, *see* Appendix II.

Scope Comments

In accordance with the Preliminary Scope Determination,⁶ the Department set aside a period of time for parties to address scope issues in case briefs or other written comments on scope issues.

For a summary of the product coverage comments and rebuttal responses submitted to the record of this final determination, and accompanying discussion and analysis of all comments timely received, *see* the Final Scope Decision Memorandum.⁷ The Final Scope Decision Memorandum is incorporated by, and hereby adopted by, this notice.

Methodology

The Department is conducting this countervailing duty (“CVD”) investigation in accordance with section 701 of the Act. For each of the subsidy programs found countervailable,

⁵ *See* Memorandum to the Record from Ron Lorentzen, Acting Assistant Secretary for Enforcement & Compliance, regarding “Tolling of Administrative Deadlines As a Result of the Government Closure During Snowstorm Jonas,” dated January 27, 2016.

⁶ *See* Memorandum to Gary Taverman, Associate Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, “Certain Corrosion-Resistant Steel Products From the People’s Republic of China, India, Italy, the Republic of Korea, and Taiwan: Scope Comments Decision Memorandum for the Preliminary Determinations,” dated December 21, 2015 (“Preliminary Scope Decision Memorandum”). *See also* Memorandum to the File, “Certain Corrosion-Resistant Steel Products From the People’s Republic of China, India, Italy, the Republic of Korea, and Taiwan: Correction to Preliminary Determination Scope Memorandum,” dated January 29, 2016.

⁷ *See* Memorandum to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, “Scope Comments Decision Memorandum for the Final Determinations,” dated concurrently with this notice.

we determine that there is a subsidy, *i.e.*, a financial contribution by an “authority” that gives rise to a benefit to the recipient, and that the subsidy is specific.⁸ For a full description of the methodology underlying our conclusions, *see* the Issues and Decision Memo.

Analysis of Subsidy Programs and Comments Received

The subsidy programs under investigation and the issues raised in the case and rebuttal briefs by parties in this investigation are discussed in the Issues and Decision Memo. A list of the issues that parties raised, and to which we responded in the Issues and Decision Memo, is attached to this notice at Appendix I.

Adverse Facts Available

Section 776(a) of the Act provides that, subject to section 782(d) of the Act, the Department shall apply “facts otherwise available” if: (1) necessary information is not on the record; or (2) an interested party or any other person (A) withholds information that has been requested, (B) fails to provide information within the deadlines established, or in the form and manner requested by the Department, subject to subsections (c)(1) and (e) of section 782 of the Act, (C) significantly impedes a proceeding, or (D) provides information that cannot be verified as provided by section 782(i) of the Act. Furthermore, section 776(b) of the Act provides that the Department may use an adverse inference in applying the facts otherwise available when a party fails to cooperate by not acting to the best of its ability to comply with a request for information.

In this case, the Department twice requested information with respect to the *Industrial Development Grants Under Law 488/92, Technological Innovation Grants and Loans Under Law 46/82, Certain Social Security Reductions and Exemptions (“Sgravi” Benefits)*, and

⁸ *See* sections 771(5)(B) and (D) of the Act regarding financial contribution; section 771(5)(E) of the Act regarding benefit; and section 771(5A) of the Act regarding specificity.

Equalization Fund from the Government of Italy. The Government of Italy withheld necessary information with respect to each of these programs, failed to provide information in the form and manner requested, and did not provide requested information by the deadlines for submission of the information, as explained in more detail in the Prelim Decision Memo and the Issues and Decisions Memo. Furthermore, the Department has concluded that the Government of Italy did not cooperate to the best of its ability in providing the requested information. Accordingly, pursuant to sections 776(a) and (b) of the Act, we have determined that for each of these programs, the application of adverse facts available is warranted. For the *Industrial Development Grants Under Law 488/92* and *Technological Innovation Grants and Loans Under Law 46/82*, and *Equalization Fund* programs, we have determined as adverse facts available that these programs are *de facto* specific, in accordance with section 771(5A)(D)(iii) of the Act. For the *Sgravi Benefits*, we have determined that the reduced tax revenue due to the Government of Italy under these provisions constitutes a financial contribution within the meaning of section 771(5)(D)(ii) of the Act as revenue forgone. We have also determined that the revenue forgone under the *Sgravi Benefits*, is either *de facto* specific, in accordance with section 771(5A)(D)(ii) of the Act, or regionally specific, in accordance with section 771(5A)(D)(iv) of the Act. More specifically, we find that Laws 53/2000 and 167/2011 are *de facto* specific accordance with 771(5A)(iii) of the Act, and that Law 223/91 is regionally specific, in accordance with section 771(5A)(D)(iv).⁹

⁹ See Prelim Decision Memo.

In addition, one company selected as a mandatory respondent, Ilva S.p.A. (“Ilva”), did not respond to the Department’s questionnaires or participate in the investigation. Accordingly, as adverse facts available, pursuant to sections 776(a) and (b), we have determined that Ilva benefitted from certain countervailable programs during the POI and calculated a rate for Ilva based on those programs.¹⁰ For further information, *see* the section “Use of Facts Otherwise Available and Adverse Inferences” in the accompanying Issues and Decision Memo.

Changes Since the Preliminary Determination

Based on our review and analysis of the comments received from parties, we made certain changes to Ilva’s subsidy rate calculations since the *Preliminary Determination*. Additionally we have modified our analysis of the Equalization Fund and now determine that an adverse inference is warranted in determining whether the program is specific. For a discussion of these changes, *see* the Issues and Decision Memo.

Final Affirmative Determination of Critical Circumstances, in Part

On July 23, 2015, Petitioners¹¹ filed a timely critical circumstances allegation, pursuant to section 733(e)(1) of the Act and 19 CFR 351.206(c)(1), alleging that critical circumstances exist with respect to imports of corrosion-resistant steel from Italy.¹² We preliminarily determined that critical circumstances did not exist for Acciaieria Arvedi S.p.A. (“Arvedi”), Marcegaglia S.p.A. (“Marcegaglia”), and the all-others companies, but did exist for Ilva. That determination remains unchanged and a discussion of our final critical circumstances determination can be found in the Issues and Decision Memo at the section, “Final

¹⁰ *See* sections 776(a) and (b) of the Act.

¹¹ United States Steel Corporation, Nucor Corporation, Steel Dynamics Inc., California Steel Industries, ArcelorMittal USA LLC, and AK Steel Corporation (collectively, “Petitioners”).

¹² *See* Letter from Petitioners, “Corrosion-Resistant Steel Products from India, Italy, the People’s Republic of China, the Republic of Korea, and Taiwan: Critical Circumstances Allegations,” July 23, 2015.

Determination of Critical Circumstances, In Part.”

Final Determination

In accordance with section 705(c)(1)(B)(i) of the Act, we calculated an individual rate for each producer/exporter of the subject merchandise individually investigated. In accordance with section 705(c)(5)(A)(i) of the Act, for companies not individually investigated, we apply an “all-others” rate, which is normally calculated by weighting the subsidy rates of the individual companies selected as mandatory respondents by those companies’ exports of the subject merchandise to the United States. Under section 705(c)(5)(i) of the Act, the all-others rate excludes zero and *de minimis* rates calculated for the exporters and producers individually investigated as well as rates based entirely on facts otherwise available. Where the rates for the individually investigated companies are all zero or *de minimis*, or determined entirely using facts otherwise available, section 705(c)(5)(A)(ii) of the Act instructs the Department to establish an all-others rate using “any reasonable method.” Where the countervailable subsidy rates for all of the individually investigated respondents are zero or *de minimis* or are based on AFA, the Department's practice, pursuant to 705(c)(5)(A)(ii), is to calculate the all others rate based on a simple average of the zero or *de minimis* margins and the margins based on AFA. Notwithstanding the language of section 705(c)(5)(A)(i) of the Act, we have not calculated the “all-others” rate by weight averaging the rates of the two individually investigated respondents and the rate based on AFA, because Ilva failed to report volume data that would enable the Department to determine the all-others rate based on a weighted-average. Therefore, and consistent with the Department’s practice, for the “all-others” rate, we calculated a simple

average of the two responding firms' *de minimis* rates and the AFA rate for the non-responsive company.¹³

Exporter/Producer	Subsidy Rate (Percent)
Acciaieria Arvedi S.p.A., Finarvedi S.p.A., Arvedi Tubi Acciaio S.p.A., Euro-Trade S.p.A., and Siderurgica Triestina Srl., collectively, the Arvedi Group	0.48 (<i>de minimis</i>)
Marcegaglia S.p.A. and Marfin S.p.A., the Marcegaglia Group	0.07 (<i>de minimis</i>)
Ilva S.p.A.	38.51
All Others	13.02

Continuation of Suspension of Liquidation

As a result of our *Preliminary Determination*, and pursuant to section 703(d) of the Act, we instructed U.S. Customs and Border Protection (“CBP”) to suspend liquidation of appropriate entries of merchandise under consideration from Italy¹⁴ that were entered or withdrawn from warehouse, for consumption, on November 6, 2015, or after August 7, 2015 (for those entities for which we found critical circumstances exist), which is 90 days before the publication date in the *Federal Register* of the *Preliminary Determination*. In accordance with section 703(d) of the Act, we issued instructions to CBP to discontinue the suspension of liquidation for CVD purposes for subject merchandise entered, or withdrawn from warehouse, on or after March 5, 2016, but to continue the suspension of liquidation of all entries from August 7, 2015 or November 6, 2015, as relevant, through March 4, 2016.

If the U.S. International Trade Commission (the “ITC”) issues a final affirmative injury

¹³ See, e.g., *Countervailing Duty Investigation of Chlorinated Isocyanurates from the People's Republic of China: Preliminary Determination and Alignment of Final Determination With Final Antidumping Determination*, 79 FR 10097 (February 24, 2014); see also, *Non-Oriented Electrical Steel From Taiwan: Final Affirmative Countervailing Duty Determination*, 79 FR 61602 (October 14, 2014) and accompanying Issues and Decision Memo at VIII. Calculation of the All Others Rate.

¹⁴ Other than entries produced and/or exported by Arvedi and Marcegaglia for which we calculated *de minimis* rates in the *Preliminary Determination*.

determination, we will issue a CVD order and will reinstate the suspension of liquidation under section 706(a) of the Act and will require a cash deposit of estimated CVDs for such entries of subject merchandise in the amounts indicated above, other than those produced and/or exported by Arvedi and Marcegaglia because those companies rates are *de minimis*. Because Arvedi and Marcegaglia were found to receive *de minimis* subsidies, they would be excluded from the CVD order. If the ITC determines that material injury, or threat of material injury, does not exist, this proceeding will be terminated and all estimated duties deposited as a result of the suspension of liquidation will be refunded or canceled.

International Trade Commission Notification

In accordance with section 705(d) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all non-privileged and non-proprietary information relating to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Assistant Secretary for Enforcement and Compliance.

Notification Regarding Administrative Protective Orders

In the event the ITC issues a final negative injury determination, this notice will serve as the only reminder to parties subject to an APO of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return or destruction of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and terms of an APO is a violation subject to sanction.

This determination is issued and published pursuant to sections 705(d) and 777(i) of the Act and 19 CFR 351.210(c).

Dated: May 24, 2016.

Paul Piquado
Assistant Secretary
for Enforcement and Compliance

Appendix I

List of Topics Discussed in the Issues and Decision Memorandum

- I. Summary
- II. Background
- III. Final Determination of Critical Circumstances, in Part
- IV. Scope of the Investigation
- V. List of Issues
- VI. Subsidies Valuation
- VII. Use of Facts Otherwise Available and Adverse Inferences
- VIII. Analysis of Programs
- IX. Calculation of the All-Others Rate
- X. Analysis of Comments
 - Comment 1: Whether White Certificates are Countervailable
 - Comment 2: Whether the Program to Purchase Ferriera Di Servola is Not Countervailable or Not Used During the POI
 - Comment 3: Whether To Include Countervailable Programs From the Post-Preliminary Memo in Ilva's AFA Rate
- XI. Recommendation

Appendix II

Scope of the Investigation

The products covered by this investigation are certain flat-rolled steel products, either clad, plated, or coated with corrosion-resistant metals such as zinc, aluminum, or zinc-, aluminum-, nickel- or iron-based alloys, whether or not corrugated or painted, varnished, laminated, or coated with plastics or other non-metallic substances in addition to the metallic coating. The products covered include coils that have a width of 12.7 mm or greater, regardless of form of coil (*e.g.*, in successively superimposed layers, spirally oscillating, *etc.*). The products covered also include products not in coils (*e.g.*, in straight lengths) of a thickness less than 4.75 mm and a width that is 12.7 mm or greater and that measures at least 10 times the thickness. The products covered also include products not in coils (*e.g.*, in straight lengths) of a thickness of 4.75 mm or more and a width exceeding 150 mm and measuring at least twice the thickness. The products described above may be rectangular, square, circular, or other shape and include products of either rectangular or non-rectangular cross-section where such cross-section is achieved subsequent to the rolling process, *i.e.*, products which have been “worked after rolling” (*e.g.*, products which have been beveled or rounded at the edges). For purposes of the width and thickness requirements referenced above:

- (1) where the nominal and actual measurements vary, a product is within the scope if application of either the nominal or actual measurement would place it within the scope based on the definitions set forth above, and
- (2) where the width and thickness vary for a specific product (*e.g.*, the thickness of certain products with non-rectangular cross-section, the width of certain products with non-rectangular shape, *etc.*), the measurement at its greatest width or thickness applies.

Steel products included in the scope of this investigation are products in which: (1) iron predominates, by weight, over each of the other contained elements; (2) the carbon content is 2 percent or less, by weight; and (3) none of the elements listed below exceeds the quantity, by weight, respectively indicated:

- 2.50 percent of manganese, or
- 3.30 percent of silicon, or
- 1.50 percent of copper, or
- 1.50 percent of aluminum, or
- 1.25 percent of chromium, or
- 0.30 percent of cobalt, or
- 0.40 percent of lead, or
- 2.00 percent of nickel, or
- 0.30 percent of tungsten (also called wolfram), or
- 0.80 percent of molybdenum, or
- 0.10 percent of niobium (also called columbium), or

- 0.30 percent of vanadium, or
- 0.30 percent of zirconium

Unless specifically excluded, products are included in this scope regardless of levels of boron and titanium.

For example, specifically included in this scope are vacuum degassed, fully stabilized (commonly referred to as interstitial-free (“IF”)) steels and high strength low alloy (“HSLA”) steels. IF steels are recognized as low carbon steels with micro-alloying levels of elements such as titanium and/or niobium added to stabilize carbon and nitrogen elements. HSLA steels are recognized as steels with micro-alloying levels of elements such as chromium, copper, niobium, titanium, vanadium, and molybdenum.

Furthermore, this scope also includes Advanced High Strength Steels (“AHSS”) and Ultra High Strength Steels (“UHSS”), both of which are considered high tensile strength and high elongation steels.

Subject merchandise also includes corrosion-resistant steel that has been further processed in a third country, including but not limited to annealing, tempering, painting, varnishing, trimming, cutting, punching and/or slitting or any other processing that would not otherwise remove the merchandise from the scope of the investigation if performed in the country of manufacture of the in-scope corrosion resistant steel.

All products that meet the written physical description, and in which the chemistry quantities do not exceed any one of the noted element levels listed above, are within the scope of this investigation unless specifically excluded. The following products are outside of and/or specifically excluded from the scope of this investigation:

- Flat-rolled steel products either plated or coated with tin, lead, chromium, chromium oxides, both tin and lead (“terne plate”), or both chromium and chromium oxides (“tin free steel”), whether or not painted, varnished or coated with plastics or other non-metallic substances in addition to the metallic coating;
- Clad products in straight lengths of 4.7625 mm or more in composite thickness and of a width which exceeds 150 mm and measures at least twice the thickness; and
- Certain clad stainless flat-rolled products, which are three-layered corrosion-resistant flat-rolled steel products less than 4.75 mm in composite thickness that consist of a flat-rolled steel product clad on both sides with stainless steel in a 20%-60%-20% ratio.

The products subject to the investigation are currently classified in the Harmonized Tariff Schedule of the United States (“HTSUS”) under item numbers: 7210.30.0030, 7210.30.0060, 7210.41.0000, 7210.49.0030, 7210.49.0091, 7210.49.0095, 7210.61.0000, 7210.69.0000, 7210.70.6030, 7210.70.6060, 7210.70.6090, 7210.90.6000, 7210.90.9000, 7212.20.0000, 7212.30.1030, 7212.30.1090, 7212.30.3000, 7212.30.5000, 7212.40.1000, 7212.40.5000, 7212.50.0000, and 7212.60.0000.

The products subject to the investigation may also enter under the following HTSUS item numbers: 7210.90.1000, 7215.90.1000, 7215.90.3000, 7215.90.5000, 7217.20.1500, 7217.30.1530, 7217.30.1560, 7217.90.1000, 7217.90.5030, 7217.90.5060, 7217.90.5090, 7225.91.0000, 7225.92.0000, 7225.99.0090, 7226.99.0110, 7226.99.0130, 7226.99.0180, 7228.60.6000, 7228.60.8000, and 7229.90.1000.

The HTSUS subheadings above are provided for convenience and customs purposes only. The written description of the scope of the investigation is dispositive.

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